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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER	
CRAWLEY, TALIA F	

ART UNIT	PAPER NUMBER
3687	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com
ptomhkkg@gmail.com

Office Action Summary	Application No.	Applicant(s)	
	10/509,771	BEARDOW, PAUL ROWLAND	
	Examiner	Art Unit	
	TALIA CRAWLEY	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *82-93,98-114,118-120,122 and 130-139* is/are pending in the application.

4a) Of the above claim(s) *130-132* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *82-93,98-114,119,120,122 and 133-139* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 September 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's arguments, see Applicant's arguments/remarks, filed 10/04/2010, with respect to the rejection(s) of claim(s) 82-93, 98-114, 118-120, 122, and 133-139 with regard to the Lee et al reference have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 U.S.C. 103(a) as being unpatentable over Burke (US Patent No 6,304,855) in view of Kerret (International Publication No WO01/69364) and further in view of Willner et al (US 2002/0196275).

Prosecution History Summary

- Claims 82-93, 98-114, 118-120, 122, and 133-139 are pending in the instant application.
- Claims 130-132 have been previously cancelled
- Claims 82-93, 98-114,118-120, 122, and 133-139 have been amended per Applicant's submission dated 10/04/2010.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 82-92 and 98-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke (US Patent No 6,304,855) in view of Kerret (International Publication No WO01/69364) and further in view of Willner et al (US 2002/0196275).

As per claim 82, Burke discloses a method comprising a wireless telephony device operating in a first operating mode that permits displaying images in a display area that includes a foreground display portion and a background display portion wherein the first operating mode includes:

displaying a first image in the background display portion;

in the foreground display portion (see for example Figures 8 and 9), but does not explicitly disclose wherein in response to an indication of a user selection of the first image, displaying the second image in the foreground display portion

However, Willner et al does disclose a similar method, which method of Willner et al indeed includes wherein in response to receiving an incoming phone call, the wireless telephony device switching from the first operating mode to a second operating mode, wherein the second operating mode includes discontinuing the displaying of the first image and the second image (see for example paragraphs [0008]-[0012] and [0053], to Willner et al).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included wherein in response to receiving an incoming phone call or initiating an outgoing phone call, the wireless telephony device switching from the first operating mode to a second operating mode, wherein the second operating mode does not include displaying the display area, in accordance with the teaching of Willner et al, in order to enable the user to store a selected image for review after the completion of a state change event, such as receiving a phone call, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 83, Burke discloses the method according to claim 82, wherein the first image is received as a constructable set of parts (see for example column 2, lines 56-59).

As per claim 84, Burke discloses the method according to claim 82, wherein displaying said second image comprises displaying the first image from a selectable direction (see for example column 11, lines 11-14).

As per claim 85, Burke discloses the method according to claim 82, wherein displaying said second image comprises displaying the first image from a selectable distance (see for example column 9, lines 20--22).

As per claim 86, Burke discloses the method according to claim 82, wherein said first image is representative of an object being advertised, and wherein said second image is representative of the same object (see for example column 5, lines 27-39).

As per claim 87, Burke discloses the method according to claim 82, but does not explicitly disclose wherein said first image is a larger depiction of the first image (see for example column 9, lines 20-22).

However, the reference Kerret et al does explicitly disclose wherein said first image is the same as the second image (see for example page 14, lines 11-14, wherein the user may be presented with a thumbnail view of a close-up image of the item, and if

the user clicks on the thumbnail, the close up images may be displayed at a sufficient size to allow the user to make an informed decision regarding the item).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included wherein said first image is the same as the second image, in accordance with the teaching of Kerret et al, in order to enable the user to select said image for enlargement to accommodate closer inspection, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 88, Burke discloses the method according to claim 82, wherein first image comprises a representation of a first photograph (see for example column 4, lines 36-38).

As per claim 89, Burke discloses the method, according to claim 82, wherein second image comprises a representation of a second photograph (see for example column 3, lines 65-67 and column 4, lines 1-4).

As per claim 90, Burke discloses the method, according to claim 82, but does not explicitly disclose wherein wireless telephony device is configured to move an image

across the background display portion until the image is selected for display in the foreground display portion (see for example column 7, line 67 and column 8, lines 1-3).

However, the reference Kerret et al does explicitly disclose wherein the wireless telephony device is configured to move images across the background display portion until selected for display in the foreground display portion (see for example pages 13-14).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included wherein wireless telephony device is configured to move images across the background display portion until selected for display in the foreground display portion, in accordance with the teaching of Kerret et al, in order to enable the user to select said image for enlargement to accommodate closer inspection, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 91, Burke discloses the method, according to claim 82, the size of the second image is greater than the size of the first image, but does not explicitly disclose wherein the second image overlaps and obscures one or more images in the background display portion. The prior art reference Burke does not explicitly disclose wherein the second image obscures any image it overlaps that is in the background display portion.

However, causing said second image to obscure any image which it overlaps and which is still in the background is well known to those of ordinary skill in the art, and official notice to that effect is hereby taken

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included causing said second image to obscure any image which it overlaps and which is still in the background in order to enable the user to view and enlarged version of a selected image, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 92, Burke discloses the method, according to claim 82, wherein first operating mode further includes in response to the selection of the first image, displaying a third image in the background display portion and removing the first image from the background display portion (see for example Figures 8 and 9). Burke does not explicitly disclose wherein the computing device is a wireless telephony device.

However, the reference Kerret et al does explicitly disclose wherein the computing device is a wireless telephony device (see for example page 6, lines 27-32, wherein the client may be a personal computer…a handheld computing device…or any other suitable computing device that has a monitor or other display and that communicates with a network).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included wherein the computing device is a wireless telephony device, in accordance with the teaching of Kerret et al, in order to enable the user to view and purchase items in a mobile setting, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 93, Burke discloses the method, according to claim 82, but does not explicitly disclose the method according to claim 32, wherein the second operating mode further includes storing state information that is representative of at least one of the group consisting of the first image, the second image, the state of the foreground display portion, and the state of the background display portion; and

Wherein the method further comprises:

subsequent to said switching to the second operating mode, the wireless telephony device using the stored state information to re-display one or both of the first image and the second image.

However, Willner et al does disclose a similar method, which method of Willner et al indeed includes the method according to claim 32, further comprising wherein the second mode further includes storing state information that is representative of at least one of the group consisting of the first image, the second image, the state of the

foreground display portion, and the state of the background display portion (see for example paragraphs [0008]-[0012], to Willner et al).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Kerret et al so as to have included the method according to claim 32, further comprising wherein the second mode further includes storing state information that is representative of at least one of the group consisting of the first image, the second image, the state of the foreground display portion, and the state of the background display portion, in accordance with the teaching of Willner et al, since doing so could have been performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 98, Burke discloses the method, according to claim 82, further comprising:

detecting a classification of a good or service represented by the first image; and receiving additional images for display, wherein the additional images are selected using the classification (see for example column 9, lines 53-63).

As per claim 99, Burke discloses the method, according to claim 82, wherein the first image is representative of a first object of a plurality of objects, but does not disclose

wherein the wireless telephony device receives the first image as part of a set of images that comprises additional images representative of other objects of the plurality of objects.

However, Kerret discloses a similar method, which method of Kerret indeed includes the sending step comprising transmitting a set of images relating to the plurality of objects to the mobile receiver device upon receiving a request from the receiver device (see for example pages 6 -7 and 13-14).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included the sending step comprising transmitting a set of images relating to the plurality of objects to the mobile receiver device upon receiving a request from the receiver device, in accordance with the teaching of Kerret, in order to enable the user to manipulate an image on the mobile device away from a stationary computing device, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

4. Claims 100-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerret (International Publication No WO01/69364) in view of Burke (US 6,304,855), further in view of Willner et al (US 2003/0096625).

As per claim 100, the reference Kerret et al discloses a system, comprising:

a wireless receiver device, configured to receive a first image from a first sender;

A display;

A processor; and

Memory coupled to the processor (see for example page 6, lines 25-33), the memory having stored thereon instructions executable by the system to cause the system to:

display the first image of the object in a background portion of the display

In response to a selection of the first image, display a second image in a foreground portion of the display (see for example pages 13-14 and Figures 7a-7d).

The reference Kerret et al does not explicitly disclose, wherein in response to receiving an incoming communication from a remote second sender that is different that the first sender; discontinue the displaying the second image, however, discontinuing a display associated with one mode (viewing advertisements) in order to conduct a transaction in a separate mode (receiving an incoming call) is well known to those of ordinary skill in the art, and official notice to that effect is hereby taken (see for example US Application 2003/0096625).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Kerret et al so as to have included receiving an incoming communication from a remote second sender that is different that the first sender; discontinue the displaying of the second image, in order to enable the user to still receive incoming phone calls while viewing images, since doing so could be performed

readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

The prior art reference Willner et al does indeed disclose wherein the system stores state information usable to re-display the second image; and subsequent to discontinuing the displaying the second image, using the stored state information to re-display the second image (see for example paragraphs [0008]-[0012], to Willner et al). It would have been obvious for one of ordinary skill in the art to modify the system of the prior art to include the aforementioned limitation of claim 100, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Kerret et al so as to have included wherein in response to a state change event that causes the system to change from the first operating mode to a second operating mode in which the background portion and foreground portion are not displayed by the system, storing state information usable to re-display at least a portion of the information in the background portion and foreground portion; and switching from the first operating mode to the second operating mode, in accordance with the teaching of Willner et al, in order to enable the user to store a selected image for review after the completion of a state change event, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 101, Burke discloses a system according to claim 100, wherein the system is configured to receive the first image as a constructable set of parts (see for example column 6, lines 28-45).

As per claim 102, Burke discloses a system according to claim 100, wherein displaying said second image comprises displaying the first image from a selectable direction (see for example column 11, lines 11-14).

As per claim 103, Burke discloses a system according to claim 100, wherein displaying said second image comprises displaying the first image from a selectable distance (see for example column 9, lines 26-35).

As per claim 104, Kerret discloses a system according to claim 100, wherein the wireless receiver, processor, and memory are within a wireless telephony device (see for example page 6, lines 27-33). The reference does not explicitly disclose wherein the aforementioned parts are within the wireless telephony device, but the elements mentioned above are inherently encompassed within a wireless telephony device, as understood by one of ordinary skill.

As per claim 105, Kerret discloses a system according to claim 104, but does not explicitly disclose wherein the incoming communication is an incoming phone call.

However, Willner et al does disclose a similar system, which system of Willner et al indeed includes wherein the state changes event comprises at least one of the system receiving an incoming phone call, and the system initiating an outgoing phone call (see for example paragraph [0053], to Willner et al).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Kerret et al so as to have included wherein the state changes event comprises at least one of the system receiving an incoming phone call, in accordance with the teaching of Willner et al, in order to enable the user complete various activities in addition to viewing and purchasing items, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 106, Burke discloses a system according to claim 100, wherein said first image is a representation of a first photograph (see for example column 3, lines 57-67).

As per claim 107, Burke discloses a system according to claim 100, wherein said a second image is a representation of a second photograph (see for example column 3, lines 65-67 and column 4, lines 1-4).

As per claim 108, Burke discloses a system, according to claim 100, wherein said system is configured to move a plurality of images across the background portion until one of the plurality of images is selected for foreground display in the foreground portion (see for example column 3, lines 63-65 and Figures 7, 8, and 9).

As per claim 109, Burke discloses a system, according to claim 100, wherein the size of the second image is greater than the size of the first image, wherein the second image overlaps any one or more images in the background portion(see for example column 9, lines 19-35, and figure 9).

As per claim 110, Burke discloses a system, according to claim 100, wherein the instructions are executable by the system to further cause the system to: responsive to a selection of the first image, display a third image in the background portion and remove the first image from the background portion (see for example Figures 8 and 9).

As per claim 111, Willner et al discloses a system, according to claim 100, wherein the stored state information is usable to redisplay the first image and the second image. However, the prior art reference Willner et al does indeed disclose wherein the server monitors the actions of a user and stores all said actions in memory (see for example paragraphs [0008]-[0012],to Willner et al).

As per claim 112, Burke discloses a system according to claim 100, wherein said first image is representative of an object, and wherein said second image is representative of the same object (see for example column 9, lines 19-35).

As per claim 113, Burke discloses a system, according to claim 105, wherein said first image is the same as the second image (see for example column 9, lines 19-35).

As per claim 114, Kerret et al discloses a system, according to claims 100, wherein the first image is an advertisement of a good or service (see for example page 17, 5-13).

As per claim 118, Burke discloses a system, according to claim 100, wherein the instructions are executable by the system to further cause the system to:

a classification of a good or service represented by the first image; and receive images for display, wherein the received images are selected using the classification (see for example column 8, lines 11-21).

As per claim 119, Kerret discloses a system, according to claim 100, wherein the first image is representative of a first object of a plurality of objects, wherein the system

receives the first image as part of a set of images that comprises additional images representative of other objects of the plurality of objects (see for example pages 14, lines 7-15).

As per claim 120, Burke discloses a system, according to claim 104, but does not explicitly disclose wherein said wireless telephony device comprises a mobile telephone handset or a personal digital assistant.

However, Kerret discloses a similar system, which system of Kerret indeed includes wherein said wireless telephony device comprises a mobile telephone handset or a Personal Digital Assistant (see for example page 6, lines 27-32).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Burke so as to have included wherein said receiver device comprises a mobile telephone handset or a Personal Digital Assistant, in accordance with the teaching of Kerret, in order to enable the user to view and purchase images remote from a stationary computing device, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 122, Burke discloses a system, according to claim 100, wherein said first image is received using the World Wide Web (see for example page 1, lines 23-25).

5. Claims 133-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanefsky (US 6,603,984) in view of Burke (US 6,304,855), further in view of Willner et al (US 2003/0096625).

As per **claim 133**, Willner et al discloses a system, comprising:

first means for receiving a first image from a first sender;

second means for providing a display of one or more images;

third means for causing the system to:

display the first image in a background portion of the display;

in response to an indication of a user selecting the first image, display a second image in a foreground portion of the display; and

in response to the system receiving incoming communication from a second sender that is not the first sender: store state information representative of

a current state of the display (see for example column 5, lines 21-28); discontinue displaying the second image (see for example column 4, lines 63-68). The prior art does not explicitly disclose wherein subsequent to discontinuing the displaying of the second image, using the stored state information to re-display the second image. However, the prior art reference Willner et al does indeed disclose the aforementioned limitation (see for example paragraphs [0006]-[0012], to Willner et al). It would have been obvious for one of ordinary skill in the art to modify the system of the prior art to

include the aforementioned limitation as disclosed by Willner et al, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per **claim 134**, the language of claim 134 is similar to that of claim 133, and therefore claim 134 is rejected for the same reasoning that was applied to claim 133.

As per **claim 135**, Burke discloses a computer-readable medium according to claim 134, wherein the method further comprises:
in response to the selection of the first image, displaying a third image in the background portion of the display, wherein the third image is representative a second object that is different than the first object; and
removing the display of the first image from the background portion of the display (see for example Figures 8 and 9).

As per **claim 136**, Kanefsky discloses a computer-readable medium according to claim 134, wherein the first image is an advertisement of a good or service, but does not explicitly disclose wherein the method further comprises using the stored state information to display at least one of the group consisting of the first image and the second image. However, the prior art reference Willner et al does indeed disclose the aforementioned limitation (see for example paragraph [0037], to Willner et al). It would

have been obvious for one of ordinary skill in the art to modify the system of the prior art to include the aforementioned limitation as taught by Willner et al, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per **claim 137**, the language of claim 137 is similar to that of claim 134, and therefore claim 137 is rejected for the same reasoning as was applied to claim 134.

As per **claim 138**, the language of claim 138 is similar to that of claim 136, and therefore claim 138 is rejected for the same reasoning that was applied to claim 136.

6. Claim 139 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kanefsky (US 6,603,984) in view of Burke (US 6,304,855) and further in view of Willner et al (US 2003/0096625).

As per **claim 139**, Willner et al discloses the method according to claim 137, wherein the first image and the second image are advertising images (see for example paragraph [0035], to Willner et al).

Response to Arguments

Applicant's arguments with respect to the aforementioned claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Talia F. Crawley whose telephone number is (571)270-5397397. The examiner can normally be reached on M-T, 6:30-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TALIA CRAWLEY can be reached on (571)270-5397. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/T. C./
Examiner, Art Unit 3687
11/12/2010

/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687